



4310-40P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC069000 -L17110000-AL0000]

Notice of Final Supplementary Rules for Public Lands Managed by the Carrizo Plain National Monument in Kern and San Luis Obispo Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: In accordance with the Record of Decision (ROD) for the Carrizo Plain National Monument Approved Resource Management Plan (RMP), the Bureau of Land Management (BLM) is establishing final supplementary rules. The Final Environmental Impact Statement that is associated with the RMP identified and thoroughly analyzed the effects of land use limitations and restrictions, and specified that supplementary rules would be required for resource protection and visitor safety. The BLM has determined that these final supplementary rules are necessary to promote the health and sustainability of the Carrizo Plain National Monument, while reducing the risks to the Monument's ecosystem that, if left unchecked, could cause undue ecological degradation. Upon publication, these final supplementary rules will supersede the interim supplementary rules that are currently in place and which apply to public lands within the Carrizo Plain National Monument. These final rules do not impose or implement any land use limitations and restrictions other than those included within the Carrizo Plain National Monument RMP, nor do they include modifications to the interim final supplementary rules published on December 21, 2012 (77 FR 75649).

DATES: The final supplementary rules are effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Bureau of Land Management, Attention: Ryan Cooper, BLM Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, CA 93308. The final supplementary rules are available for inspection at the Bakersfield Field Office and on the Bakersfield Field Office webpage (<http://www.blm.gov/ca/st/en/fo/bakersfield/Programs/carrizo.html>).

FOR FURTHER INFORMATION CONTACT: Ryan Cooper, 3801 Pegasus Drive, Bakersfield, CA 93308, 661-391-6048 or racooper@blm.gov

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Public Comment Procedures and Discussion of Final Supplementary Rules
- III. Procedural Matters

I. Background

The BLM is establishing these final supplementary rules under the authority of 43 CFR 8365.1-6, which allows BLM State Directors to establish supplementary rules for the protection of persons, property, and public lands and resources. This provision allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations. These final supplementary rules apply to public lands managed by the Bakersfield Field Office in the Carrizo Plain National Monument. Maps of the management areas and boundaries can be obtained by contacting the Bakersfield Field Office (see **ADDRESSES**) or by accessing the following website:

<http://blm.gov/ca/st/en/fo/bakersfield/Programs/carrizo.html>. The final supplementary rules will be available for inspection in the Bakersfield Field Office.

Carrizo Plain National Monument Presidential Proclamation (Monument Proclamation) of January 17, 2001 established the Monument in recognition of its exceptional objects of scientific and historic interest. Previously, the BLM had managed the area in accordance with the Carrizo Plain Natural Area Management Plan of 1996. Under the guidance of that plan, the State Director established supplementary rules for the Natural Area at 62 FR 54126 (Oct. 17, 1997). The RMP/ROD for the Monument, signed on April 10, 2010, provides for those supplementary rules to remain in effect. The final supplementary rules put in place by this notice are in addition to rules established in 1997.

These final supplementary rules implement provisions for visitor use and resource protection identified in the RMP/ROD at Attachment 7, “Supplementary Rules for Public Use.” They are designed to promote visitor safety, while protecting the sensitive resources and objects of the monument from irreparable destruction or vandalism, and maintain a positive experience while visiting the monument.

II. Public Comment and Discussion of Final Supplementary Rules

The BLM published interim final supplementary rules on December 21, 2012 (77 FR 75649). The interim final supplementary rules became effective immediately upon publication based on threats to the health and sustainability of grasslands and native endangered, threatened and rare flora and wildlife species, and to world-class archaeological sites. However, the BLM invited public comment for 60 days on those interim final rules. The comment period closed on February 19, 2013. During the

comment period, 54 comments were received. One comment supported the supplementary rules, one comment contained no substantive comments, and 52 comments were form letters expressing concern that monument staff would not be able to identify street-legal versus non-street-legal vehicles and possibly deny access to a street-legal vehicle. As a result, the BLM has not revised the final supplementary rules in response to these comments. The BLM is confident that the definition of “street-legal vehicle” in these rules is straightforward and enables Monument staff to properly and effectively enforce the rules. In addition, law enforcement personnel are trained to be able to distinguish between the two types of vehicles.

Therefore, the only changes being made here are that the BLM has revised the interim final supplementary rules by: (1) Deleting references to “interim final supplementary rules” and “interim supplementary rules” and, in appropriate instances, by substituting text indicating that these are now final supplementary rules; and (2) Correcting an error in the “penalties” provision.

The “penalties” provision in the interim final supplementary rules incorrectly cited 43 CFR 8365.0-7, a regulation that does not exist. The correct cite, 43 CFR 8360.0-7, is in the “penalties” provision of these final supplementary rules.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These final supplementary rules will not have an annual effect of \$100 million or more on the economy or adversely affect, in a material way, the economy, productivity,

competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities. These final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The final supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligation of their recipients; nor do they raise novel legal or policy issues. They merely impose certain rules on recreational activities on a limited portion of the public lands in California in order to protect human health, safety, and the environment.

National Environmental Policy Act

These final supplementary rules themselves comprise a category or kind of action that has no significant individual or cumulative effect on the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). See 40 CFR 1508.4; 43 CFR 46.210. Specifically, these final supplementary rules are categorically excluded from the requirements of NEPA because they comprise an action of an administrative, financial, legal, technical, or procedural nature within the meaning of 43 CFR 46.210(i), and none of the extraordinary circumstances listed at 43 CFR 46.215 would be applicable. Therefore, the BLM is not required to prepare an environmental assessment or an environmental impact statement for these final supplementary rules.

Moreover, these final supplementary rules are a component of a larger planning process for the Monument (i.e., the RMP/ROD), that itself was a major Federal action. In developing the Monument RMP/ROD, the BLM prepared a Draft and Final EIS, which include a complete analysis of each decision corresponding to the final supplementary

rules. The Draft and Final EIS, the Proposed Resource Management Plan, and the RMP/ROD are on file and available to the public in the BLM administrative record at the address specified under **ADDRESSES**. The Proposed Resource Management Plan, Final EIS, and RMP/ROD are online at:

<http://www.blm.gov/ca/st/en/fo/bakersfield/Programs/carrizo.html>.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands. Therefore, the BLM has determined under the RFA that these final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). These final supplementary rules generally contain rules of conduct for recreational use of certain public lands. While they prohibit photography of pictographs or petroglyphs for commercial use, that prohibition does not have an effect on business, commercial, or industrial use of the public lands that rises to any of the following thresholds specified in 5 U.S.C. 804(2):

- (a) An annual effect on the economy of \$100 million or more;

- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These final supplementary rules do not impose an unfunded mandate on State, local or tribal governments in the aggregate, or the private sector, of more than \$100 million per year; nor do they have a significant or unique effect on small governments. These final supplementary rules do not require anything of State, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The final supplementary rules are not a government action capable of interfering with constitutionally protected property rights. The final supplementary rules do not address property rights in any form and do not cause the impairment of anybody's property rights. Therefore, the Department of the Interior has determined that these final supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final supplementary rules will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government.

Therefore, the BLM has determined that these final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that these final supplementary rules will not unduly burden the judicial system and that the requirements of sections 3(a) and 3(b) (2) of the Executive Order are met. The final supplementary rules include rules of conduct and prohibited acts, but they are straightforward and not confusing.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

As discussed in the RMP/ROD, the BLM has been working with a Native American Advisory Committee for the Monument formed under a 1997 charter agreement. The Advisory Committee was formed to encourage the participation in Monument management of both federally recognized tribes and other Native Americans having ancestral cultural ties to the lands in the Monument. The Advisory Committee includes representatives of the Chumas, Yokuts, and Salinan people.

The Advisory Committee actively participated in the planning process that resulted in the 2010 RMP/ROD. The BLM also provided tribes in the vicinity of the Monument with copies of the draft RMP and requested comments. The tribes expressed no concerns about the RMP or the decisions related to these final supplementary rules. For these reasons, the BLM has determined that these final supplementary rules themselves do not include policies with tribal implications that have not already been considered in consultation and coordination with Indian tribal governments.

Information Quality Act

In developing these final supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106-554). In accordance with the Information Quality Act, the Department of the Interior has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at DOI's website at <http://www.doi.gov/ocio/iq.html>.

Executive Order 13211, Effects on the Nation's Energy Supply

These final supplementary rules do not comprise a "significant energy action," as defined in Executive Order 13211, since they are not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Paperwork Reduction Act

These final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Author

The principal author of these final supplementary rules is Ryan Cooper, Recreation Planner, Carrizo Plain National Monument.

For the reasons stated in the preamble and under the authority for supplementary rules found in 43 CFR 8365.1-6, the BLM California State Director hereby establishes these final supplementary rules, effective upon publication. These rules supersede the interim final rules published on December 21, 2012 (77 FR 75650) and read as follows:

Final Supplementary Rules for Public Lands Within the Jurisdiction of the Carrizo

Plain National Monument

Definitions

Commercial use means any pictures or film created for the purpose of financial gain.

Painted Rock Exclusion Zone means lands within the Carrizo Plain National Monument indicated on Map 2-3 in the Carrizo Plain National Monument Approved Resource Management Plan, and with the following legal description: T32S, R20E, portions of sections 7, 8, 15, 16, 17, 18, MDM.

Pictographs means images painted upon stone surfaces by Native American people.

Petroglyphs means images carved into stone surfaces by Native American people.

Replica weapon means any imitation firearm, including paintball guns, air-soft guns, and war game apparatuses.

Street-legal vehicle means a vehicle, such as an automobile, motorcycle, or light truck, that is equipped and licensed for use on a public street and/or highway and that is subject to registration under the California Vehicle Code 4000(a)(1).

Rules

1. You must not use any replica weapons (such as paintball, airsoft, or war game apparatus) within the Carrizo Plain National Monument.
2. You must not drive, move, or leave standing a motor vehicle within the Carrizo Plain National Monument boundaries, unless it is a street-legal vehicle, or:
 - (a) The vehicle is a military, fire, emergency, or law enforcement vehicle being used for emergency purposes;

- (b) The vehicle is expressly authorized by the authorized officer, or otherwise officially approved; or
 - (c) The vehicle is registered with the State off-highway vehicle program, and displays a red or green State-issued sticker, and is being used on a portion of the Temblor Ridge Road from T. 31 S., R. 21 E., Sec. 23 (Crocker Grade Road) to T. 11 N., R. 24 W., Sec. 7.
3. All pets must remain leashed or caged at all developed sites including visitor centers, interpretive overlooks, trail heads, and camping areas.
 4. You must not take or ride any horse into the Painted Rock Exclusion Zone.
 5. You must not take any dog into the Painted Rock Exclusion Zone.
 6. You must not take or ride non-motorized bicycles into any part of the Painted Rock Exclusion Zone, except the Painted Rock parking area.
 7. You must not engage in any cache-type activities (including geocaching and earth caching) in the Painted Rock Exclusion Zone.
 8. You must not discharge any firearms in the Painted Rock Exclusion Zone, which is a pre-historic Native American site on the National Register of Historic Places.
 9. You must not start any campfire in the Painted Rock Exclusion Zone, except for Native American ceremonial use, which is in accordance with Executive Order 13007, Indian Sacred Sites (1996).
 10. You must not make, for commercial use, digital, photographic, print, or video images of any of the pictographs or petroglyphs, or any graffiti that overlies or is immediately adjacent to the pictographs and petroglyphs, located within the boundaries of the Carrizo Plain National Monument, unless:

(a) Making such images is for non-commercial scientific or educational purposes; and

(b) It is authorized in writing by the BLM.

11. You must not release non-native or captive-held native species on BLM lands within the boundaries of the Carrizo Plain National Monument unless authorized in writing by the BLM.

Penalties

Violations of any supplementary rules by a member of the public may be subject to the penalties provided in 43 CFR 8360.0-7, which include a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.

James G. Kenna,
State Director.

[FR Doc. 2014-09437 Filed 04/25/2014 at 8:45 am; Publication Date: 04/28/2014]